

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: IMPELLIZZERI, Frederic

SERIAL NO.: 10/530,683

ART UNIT: 3733

FILED: September 02, 2005

EXAMINER: Hoffman, M. C.

TITLE: SELF-LOCKING OSTEOSYNTHESIS DEVICE

Amendment F: REMARKS

Upon entry of the present amendments, Claims 1 -18, 22, 24 and 27 have been previously canceled, and Claims 19-21, 23, 25-26 and 28 are currently pending. The independent Claims 19, 26, and 28 have been amended. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Office Action, it was indicated that Claims 19-21, 23, 25 and 28 were rejected under 35 U.S.C. §112, first paragraph for failing to comply with the written description requirement. Claim 26 was rejected under 35 U.S.C. § 103(a) as being obvious over the Kummer patent in view of the Frigg patent.

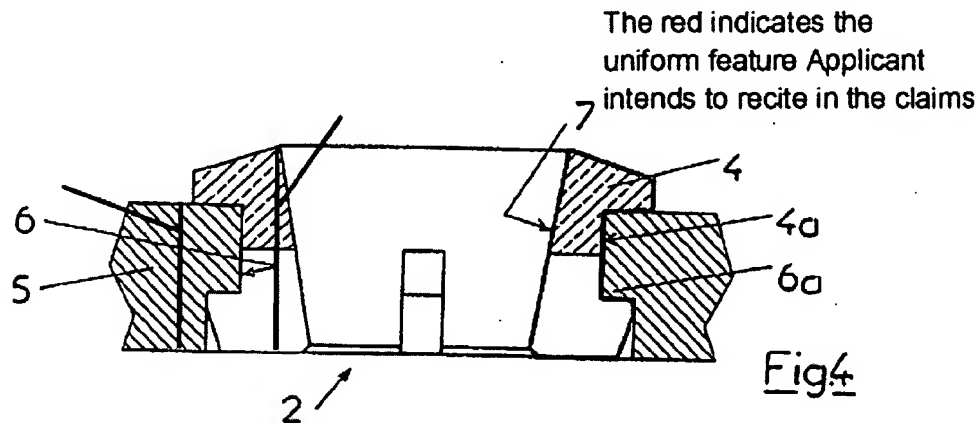
As an overview to the present reply, independent Claims 19, 26 and 28 have been re-presented with specific reference to the original disclosure. There is no new matter of the descriptions of the claim elements, and more specific guidance is provided herein.

With respect to the formality rejection of "constantly aligned", the term has been canceled and replaced as suggested by the Examiner with "fixed".

With respect to the new matter rejection of the term "uniform width" in Claim 19 and 28, Applicant has substituted this term with "uniform axial cross-section". The insert fits along the

circumference of the opening with a tapered hole in the middle, forming a generally ringed shape.

The cross-section of the insert, as shown in original Figure 4-6, is uniform. The cross-section is the same all the way around the hole. This uniformity, along with the other limitations of the present invention is not made obvious by the prior art.

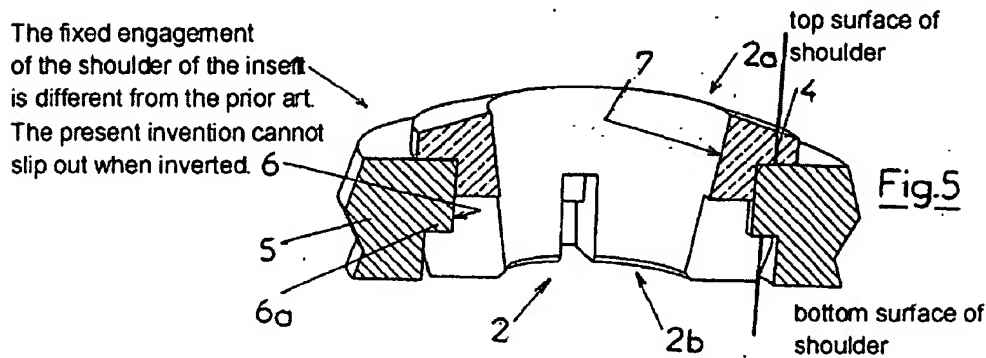


The Examiner has rejected the term "width". Applicant can concede that "width" is not the most accurate term to describe the feature shown in Figure 4. Applicant is willing to accept ANY term suggested by the Examiner to accurately describe the claimed subject matter. Applicant has presented "uniform axial cross-section" for this purpose to place the claims into a condition for allowance.

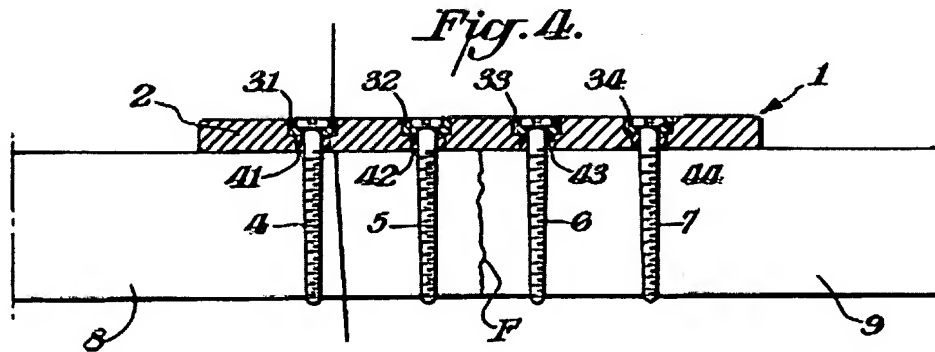
It is further important to acknowledge that Applicant is not solely relying on this uniformity characteristic alone to distinguish from the prior art combinations. There are significant differences recited in the claims, including the fixed position of the insert relative to the plate and engagement on the shoulder element.

With respect to the obviousness rejection, Applicant has further specified "opposing surfaces"

as the "top and bottom surfaces" in Claims 19, 26 and 28. Applicant was not referring to the left and right sides of the shoulder, but rather the top and bottom. Applicant apologizes if confusing illustrations were presented to hinder understanding of the invention.



Considering the red markings. The opposing surfaces are the top and bottom of the shoulder. The prior art is significantly different.



From the Kummer patent, Figure 4, the red indicators show that the shoulder is not engaged like the present invention. The opposing top and bottom surfaces of the shoulder are not engaged as recited in the claims of the present invention. The left and right surfaces the shoulder cited by the Examiner

are not the subject matter of the claimed invention.

Applicant respectfully contends that the application has been placed into a condition for allowance. The inventive features of the present invention have been present in the original drawings since the original filing. Applicant has diligently provided attempt after attempt to recite language deemed suitable by the Examiner. The inventive features have been in this application from the beginning, and Applicant has been open and willing to accept any concrete suggestions from the Examiner with respect to suitable language. Applicant respectfully contends that such language is now recited in the claim language.

As an amendment under 37 C.F.R. § 1.132, Applicant respectfully requests an Advisory Action from the Examiner, if further changes are required.

Based upon the foregoing analysis, Applicant contends that independent Claims 19, 26 and 28 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

July 16, 2009

Date

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